

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ALEXANDRA WEINDEL,)	
)	
Plaintiff,)	
)	Case No.: 4:16-CV-636
v.)	
)	St. Louis City Cause No.: 1622-CC00816
ALLSTATE INSURANCE COMPANY,)	
)	JURY TRIAL DEMANDED
and)	
)	
AMERICAN FAMILY MUTUAL)	
INSURANCE COMPANY,)	
)	
Defendants.)	

SEPARATE ANSWER ON BEHALF OF DEFENDANT
AMERICAN FAMILY MUTUAL INSURANCE COMPANY

COMES NOW Defendant American Family Mutual Insurance Company (American Family), by and through the undersigned counsel, and for its Separate Answer to Plaintiff's Petition for Damages-Uninsured Motorist states as follows.

ALLEGATIONS COMMON TO ALL COUNTS

1. Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.
2. Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.
3. Defendant admits.
4. Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.
5. Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.

6. Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.

7. Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.

8. Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.

9. This Defendant denies each and every allegation contained in paragraph 9, including the subparts A – F.

10. This Defendant denies each and every allegation contained in paragraph 10.

Count I

Insomuch as the allegations contained in paragraphs 11 – 18 are not directed against Defendant American Family and are instead directed to Defendant Allstate Insurance Company, Defendant American Family makes no response thereto. To the extent paragraph 11 – 18 are construed to be directed against Defendant American Family, such allegations are denied and hold Plaintiff to strict proof thereof.

Count II

COMES NOW Defendant, American Family, and for its Separate Answer to Count II of Plaintiff's Petition to state as follows.

19. Defendant incorporates its responses to the allegations of paragraphs 1 – 10 as if fully set forth herein.

20. Defendant admits that it issued an insurance policy to Mr. David York, which included coverage for uninsured motorist coverage, and that it was in full force and effect at the time of the alleged incident in this case. However, Defendant denies the remaining allegations in paragraph 20.

21. Defendant admits that the insurance policy issued to Mr. David York included coverage for uninsured motorists. However, Defendant denies the remaining allegations in paragraph 21.

22. Defendant is without sufficient information to admit or deny the allegations of paragraph 23, and therefore deny same and hold Plaintiff to strict proof thereof.

23. The allegations of paragraph 23 do not refer to the specific provision of the insurance policy issued to David York that Plaintiff relies upon in support of her allegation. As such, Defendant is without sufficient information to admit or deny the allegations of paragraph 24, and therefore deny same and hold Plaintiff to strict proof thereof.

24. Defendant admits that pursuant to the insurance policy issued to Mr. David York the alleged policy limit for uninsured motorists is \$100,000 for each person. However, Defendant denies the remaining allegations in paragraph 24.

25. This Defendant states that paragraph 25 asserts a legal conclusion and therefore no response is necessary, however, to the extent that a response is so required, Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.

26. This Defendant states that paragraph 26 asserts a legal conclusion and therefore no response is necessary, however, to the extent that a response is so required, Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.

Defendant denies the relief requested by Plaintiff in the WHEREFORE paragraph of Count II.

WHEREFORE, Defendant American Family Mutual Insurance Company having fully answered Count II of Plaintiff's Petition prays to be dismissed together with proper costs and for any further such Orders this Honorable Court deems just and proper under the circumstances.

Count III

COMES NOW Defendant, American Family, and for its Separate Answer to Count III of Plaintiff's Petition to state as follows.

27. Defendant incorporates its responses to the allegations of paragraphs 1 – 10 as if fully set forth herein.

28. Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.

29. Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.

30. Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.

31. Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.

32. Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.

33. Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.

34. Defendant is without sufficient information to admit or deny the allegations of this paragraph, and therefore deny same and hold Plaintiff to strict proof thereof.

Defendant denies the relief requested by Plaintiff in the WHEREFORE paragraph of Count III.

WHEREFORE, Defendant American Family Mutual Insurance Company having fully answered Count III of Plaintiff's Petition prays to be dismissed together with proper costs and for any further such Orders this Honorable Court deems just and proper under the circumstances.

ADDITIONAL RESPONSES and AFFIRMATIVE DEFENSES

COMES NOW Defendant, American Family, and for its additional responses and affirmative defenses to Plaintiff's Petition and states:

1. This Defendant denies each and every allegation contained within Plaintiff's Petition which is not expressly admitted herein.
2. This Defendant states that it intends to rely upon the benefits of Mo. Rev. Stat. §§490.715, 508.010, 508.011, 510.263, 510.265, 512.099, 537.067, 538.229 and 538.300 as a defense to any and all claims of Plaintiff.
3. This Defendant states that it is entitled, pursuant to Mo. Rev. Stat. §537.060, to an offset and reduction against any adverse judgment or verdict which may be rendered in this case by any amounts or consideration paid to Plaintiff herein by any other tortfeasor, if any.
4. This Defendant hereby pleads the terms, conditions, and endorsements to Policy Numbers 1021-1508-08-70-FPPA-MO and 1021-1508-01-49-FPPA-MO as a defense to any and all claims being asserted against this Defendant under said policies.

/s/ Benjamin M. Fletcher

Robert J. Wulff, #34081MO
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CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2016 I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all parties/attorneys of record and a copy was likewise mailed and emailed by PDF attachment to Mr. Stephen G. Bell, 450 George Ave., St. Louis, Missouri 63122 and sbell@sbellaw.com.

/s/ Benjamin M. Fletcher